

REMARKS

Claims 1-20 are pending in the present application. Reconsideration and withdrawal of the present rejections in view of the comments presented herein are respectfully requested.

Obviousness-type double patenting

Claims 1-5, 8-13 and 16-20 were rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2 and 5 of commonly owned US Patent No. 7,504,196.

Claims 1-5, 8-13 and 16-20 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over various claims of the following commonly owned copending applications: 11/572,630; 11/917,458; 11/574,805; 11/813,511; 11/914,451; 11/718,091; and 11/994,602.

Enclosed is a terminal disclaimer over US Patent No. 7,504,196, and over the following copending, commonly owned applications: 11/572,630, 11/917,458 and 11/718,091, thus overcoming the obviousness-type double patenting rejections over this patent and these patent applications, .

However with respect to Application Nos. 11/574,805, 11/813,511, 11/914,451, and 11/994,602, Applicants are not providing terminal disclaimers. According to MPEP 804(I)(B)(1), “[i]f a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.” Among the present application and Application Nos. 11/574,805, 11/813,511, 11/914,451, and 11/994,602, the present application was the earliest-filed, and the only remaining rejection is an obviousness-type double patenting. In addition, Application Nos. 11/574,805, 11/813,511, 11/914,451, and 11/994,602 (the later-filed applications) have not yet been found to be in condition for allowance. As such, these applications may be rejectable on other grounds.

Thus, Applicants respectfully request that the Examiner withdraw the provisional obviousness-type double patenting rejections over Application Nos. 11/574,805, 11/813,511, 11/914,451, and 11/994,602, and allow the present case to issue.

CONCLUSION

Applicants submit that all claims are in condition for allowance. However, if minor matters remain, the Examiner is invited to contact the undersigned at the telephone number provided below. If any additional fees are required, please charge these to Deposit Account No. 11-1410. Should there be any questions concerning this application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Respectfully submitted,

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